

REMARKS/ARGUMENTS**Nexus Between the Claims of the Present Application and the "Sentry" Products**

During the course to the March 11 interview, the Examiner indicated that the Applicants had not shown a connection between the claims pending the Application, and the Sentry products being used to discuss certain issues such as commercial success. In response, the Applicants file herewith a declaration by C. Mitch Means asserting that the products being sold by Baker Hughes Petrolite under the trade designation "Sentry Systems" and variations thereof have each and every element of at least Claims 1 and 4 as of the date of the declaration ... March 29, 2004. The Applicants respectfully assert that a connection has now been established and that the Examiner may consider representations made regarding the Sentry System products to be relevant to at least Claims 1 and 4 of the present application.

U.S. Patent No. 4,721,158 to Merrit Jr., et al.

The 4,721,158 patent ('158) is a basis for the rejection of Claim 1-20. The Applicant has made earlier representations regarding this reference that it is limited to secondary recovery and not relevant to the field of the present invention. Claim 1, as currently amended reads:

A system for monitoring and controlling a supply of an additive introduced into formation fluid within a production wellbore, comprising:

- (a) a flow control device for supplying a selected additive from a source thereof at a wellsite to the formation fluid being recovered from the production wellbore;
- (b) a flow measuring device for providing a signal representative of the flow rate of the selected additive supplied to said formation fluid in the production wellbore;
- (c) a first onsite controller receiving the signals from the flow measuring device and determining therefrom the flow rate, said first onsite controller transmitting signals representative of the flow rate to a remote location; and
- (d) a second remote controller at said remote location receiving signals transmitted by said first controller and in response thereto transmitting command signals to said first controller representative of a desired change in the flow rate of the selected additive;

wherein the first onsite controller causes the flow control device to change the flow rate of the selected additive in response to the command signals and the system supplies the selected additive such that it is present at a concentration of from about 1 ppm to about 10,000 ppm in the formation fluid recovered from the production wellbore .

(Emphasis added) The Applicants' arguments to date have been unpersuasive to the Examiner that the '158 patent was limited to secondary recovery. The Applicants now wish to add the further buttressing argument that the '158 patent has additional limiting language. The term "Artificial Lift" is used to describe the prior art in the back ground. This term as shown in the definition already of record shows that the '158 reference is limited to secondary recovery. This is also shown in the specification. For example, at col. 3, lines 40-44, it is shown that the "injections" at the wells in '158 is done at an injection wellhead. One of ordinary skill in the art of making injections of additive to production fluid as it is being produced from a production well would not have been motivated to adapt the technology of the '158 patent to solve problems associated with injecting additives into formation fluid as it is being produced.

Claim 4 stands rejected with the '158 patent being cited as disclosing a turbine meter. The Examiner had indicated in prior office actions that the turbine flow meter disclosed in the '158 patent is a positive displacement flow meter. The Declaration of C. Mitch Means on this subject, made of record during the interview, shows that a turbine meter is not a positive displacement flow meter as claimed in Claim 4 of the present Application.

The Applicants now respectfully assert that none of the claims, and especially Claim 4, are obvious in view of any combination of art that includes the '158 patent.

Commercial Success

During the interview, the Applicants submitted evidence of commercial success. Specifically, the Applicants present a declaration showing a capture of from 16 to 32 percent of a model market comprising the Gulf of Mexico, in a declaration made of record during the interview. Also, the Applicants made of record an article in a 3rd party magazine praising the Sentry products. Both of these are strong evidence of commercial success and as such, are secondary indicia of non-obviousness.

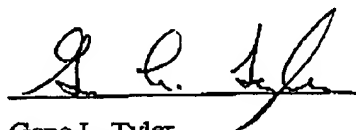
Long Felt Need

The present invention is much more reliable than the prior art. The use of the positive displacement flow meter, for example, is much more dependable than the orifice meter of the Spivey (U.S. Patent No. 4,635,723). Spivey was issued in 1987, but was not maintained. While the actual reason this patent was not maintained is unknown to the Applicants, it is never the less believed that the reason was likely the problems that would have occurred with the Spivey invention in the event of low or high flow rates, or even a tubing leak or pump problem. The present invention is intended for markets where routing maintenance is difficult and even dangerous. That the Spivey application was even filed shows that the problem solved by the present invention has been a consideration for more than a decade.

The article in E&P is also helpful in that it shows the developments in the oil and gas industry that have made the problems solved by the present invention even more important over the years. For example, the use of offshore and often unmanned production systems has made systems such as the present invention important. The present invention is a solution to a long-felt need in the oil and gas industry and this also is a secondary indicia of the present invention's non-obviousness.

Allowance of Claims 1-20 is respectfully requested.

Respectfully submitted,



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Date: March 30, 2004

DECLARATION OF C. MITCH MEANS

I, C. Mitch Means, hereby declare:

1. My home address is 5011 Saddle Dr., Needville, Texas 77461;
2. I became an employee of Baker Petrolite in 1998;
3. I became Manger of Chemical Automation Systems in 2000;
4. I am inventor on Patent Application No. 09/658,907;
5. I am familiar with the products being sold by Baker Hughes Petrolite under the trade designation "Sentry System" and variations thereof;
6. I am familiar with the claims of Patent Application No. 09/658,907, Claim 1 of which presently reads:

A system for monitoring and controlling a supply of an additive introduced into formation fluid within a production wellbore, comprising:

- (a) a flow control device for supplying a selected additive from a source thereof at a wellsite to the formation fluid being recovered from the production wellbore;
- (b) a flow measuring device for providing a signal representative of the flow rate of the selected additive supplied to said formation fluid in the production wellbore;
- (c) a first onsite controller receiving the signals from the flow measuring device and determining therefrom the flow rate, said first onsite controller transmitting signals representative of the flow rate to a remote location; and
- (d) a second remote controller at said remote location receiving signals transmitted by said first controller and in response thereto transmitting command signals to said first controller representative of a desired change in the flow rate of the selected additive;

wherein the first onsite controller causes the flow control device to change the flow rate of the selected additive in response to the command signals and the system supplies the selected additive such that it is present at a concentration of from about 1 ppm to about 10,000 ppm in the formation fluid recovered from the production wellbore.

and is pending in the present application;

7. I am familiar with the claims of Patent Application No. 09/658,907, Claim 4 of which presently reads:

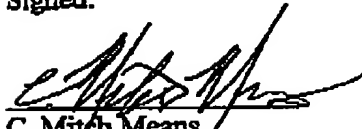
The system of claim 1, wherein the flow measuring device is a positive displacement flow meter.

and is pending in the present application;

8. I further declare that the products being sold under the trade designation "Sentry System" and variations thereof all have each and every element of Claims 1 and 4.
9. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any registration resulting therefrom.

Furthermore Declarant sayeth not.

Signed:



C. Mitch Means

Date: 3-29-04